

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

WARREN STEWARD, as Guardian	)	
Parent and Next Friend of	)	
JORDAN R. STEWARD, a disabled person	)	Case No. 1:16-CV-00267-DBH
	)	
Plaintiff	)	
v.	)	
	)	
CITY OF BANGOR, MAINE,	)	
et al,	)	
	)	
Defendants and Third-	)	
Party Plaintiffs	)	
v.	)	
	)	
JAMES COOK	)	
	)	
Third-Party Defendant	)	

**THIRD-PARTY COMPLAINT**

Third-Party Plaintiffs City of Bangor, Maine; Bangor Maine Police Department; and Officer Keith Larby (hereinafter collectively referred to as the “Bangor Defendants/Third-Party Plaintiffs”), by and through counsel, hereby file suit against Third-Party Defendant James Cook, and in support thereof, state as follows.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over Plaintiff Warren Steward, as Guardian, Parent and Next Friend of Jordan R. Steward’s Complaint pursuant to 42 U.S.C. § 1983 as well as 28 U.S.C. § 1331. This Court has supplemental jurisdiction over her state law tort claims and jurisdiction over this Third-Party Complaint pursuant to 28 U.S.C. § 1367(a).
2. Venue is properly vested in this Court because all parties are residents of this

District and the acts complained of occurred within the jurisdiction of this District (specifically, Penobscot County, Maine).

### **PARTIES**

1. Plaintiff Warren Steward, is Guardian, Parent and Next Friend of Jordan R. Steward by virtue of Orders of the Penobscot County (Maine) Probate Court.
2. Plaintiff Warren Steward, Guardian, Parent and Next Friend of Jordan R. Steward is a resident of this District
3. Defendant and Third-Party Plaintiff City of Bangor, Maine, is and was at all times relevant a city situated in the State of Maine, organized as such under the laws of the State.
4. Defendant and Third-Party Plaintiff Bangor Maine Police Department is and was at all times relevant a police department situated in the City of Bangor in the State of Maine, duly organized as such under the laws of the State.
5. Defendant and Third-Party Plaintiff Officer Keith Larby is and was at all times relevant an officer employed by the Bangor, Maine Police Department.
6. Third-Party Defendant James Cook is an individual and a resident of this District.

### **RELEVANT FACTS**

7. On December 10, 2015, Officer Keith Larby attempted to make a lawful stop of a vehicle driven by James Cook for a violation.
8. Officer Larby put on his siren and flashed his lights, but James Cook failed to stop.

9. Officer Larby continued to follow the vehicle and James Cook did not stop his vehicle as required.
10. James Cook operated his vehicle negligently and in reckless disregard for others.
11. James Cook ultimately crashed his vehicle.
12. Plaintiff Jordan R. Steward was a passenger in James Cook's vehicle and alleges that he sustained injury when the vehicle crashed.
13. Third-Party Defendant James Cook's actions in attempting to avoid a lawful stop and in driving his vehicle in a negligent and reckless manner were the cause of Plaintiff's injuries.

#### **COUNT I – INDEMNIFICATION**

14. The Bangor Defendants/Third-Party Plaintiffs repeat and reallege the statements in paragraphs 1 through 11 of this Third-Party Complaint as if fully set forth herein.
15. James Cook had a duty to his passengers and to the public to operate his vehicle in a safe manner.
16. James Cook had a duty to bring his vehicle to a stop at the request and signal of Officer Larby.
17. James Cook breached these duties by failing to stop and negligently operating his vehicle which resulted in Cook crashing his vehicle.
18. James Cook's negligence as operator of the vehicle that crashed was the proximate cause of Plaintiff's alleged injuries and damages.

19. James Cook bears the primary or greater liability or duty which justly requires him to bear the whole of the burden for Plaintiff Erica Dubois' alleged harm.

**COUNT II – CONTRIBUTION & INDEMNIFICATION**

20. The Bangor Defendants/Third-Party Plaintiffs repeat and reallege the statements in paragraphs 1 through 17 of this Third-Party Complaint as if fully set forth herein.

21. Should a factfinder determine that Officer Larby and/or other Bangor Defendants/Third-Party Plaintiffs bear any responsibility for any of Plaintiff's damages, Larby and/or other Bangor Defendants/Third-Party Plaintiffs are entitled to contribution from James Cook as a joint tortfeasor.

WHEREFORE, the Bangor Defendants/Third-Party Plaintiffs respectfully request that this honorable Court determine Third-Party Defendant James Cook's share of fault for Plaintiff Jordan R. Steward's alleged harm and award each indemnification and/or contribution and such other relief as the Court deems just and proper.

DATED at Bangor, Maine this 20th day of January, 2017.

/s/ Frederick F. Costlow

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Frederick F. Costlow, Esq.  
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MAINE, BANGOR, MAINE POLICE  
DEPARTMENT and OFFICER KEITH  
LARBY

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**CERTIFICATE OF SERVICE**

I, Frederick F. Costlow, Esq., of Richardson, Whitman, Large & Badger, attorney for the Bangor Defendants/Third-Party Plaintiffs, hereby certify that on January 20, 2017, I electronically filed the foregoing *Third-Party Complaint* with the Court via the CM/ECF electronic filing system, which will send notification of such filing to all counsel of record in the above-captioned matter.

/s/ Frederick F. Costlow \_\_\_\_\_  
Frederick F. Costlow, Esq.  
Richardson, Whitman, Large & Badger